UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/502,825	02/11/2000	Kiyoshi Miyazaki	1095.1120/JDH	5726

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EXAMINER
DASS, HARISH T

ART UNIT	PAPER NUMBER
3628	

DATE MAILED: 08/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/502,825	Applicant(s) MIYAZAKI ET AL.	
	Examiner Harish T Dass	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _11 June 2003_ .

2a)☒ This action is **FINAL**.　　2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-20_ is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-20_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

　　If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☒ All　b)☐ Some *　c)☐ None of:

　　　1.☒ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____ .

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

　　a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _5,6_ .

4)☐ Interview Summary (PTO-413) Paper No(s). _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 5, 9-10, 11-12, 14 and 18-20 rejected under 35 U.S.C. 102(e) as being

anticipated by Himmelstein (PGPUB US 2002/0032643).

Re. Claims 1, 9-10, & 18-20, Himmelstein discloses chain order (swapping barter items)

input means permitting input of orders to sell or purchase a first type of fungible goods

in the electronic market, and permitting the input of a chain order, the chain order being

an order requesting, on condition of execution of an order for sale or purchase of the

first type of fungible goods, purchase or sale of a second type of fungible goods, the

second type of fungible goods being different from and not fungible with respect to the

first type of fungible goods [see entire document particularly, Abs; Fig. 3, 5A-7E; page 1

paragraph 0001 to page 2 para. 0011; page 5 para 0047], and order detecting (find)

means for automatically detecting execution of an order for purchase or sale of the first

type of fungible goods with respect to which the chain order has been placed [page 3

para 0027-0032; page 13 para 0148], and chain order processing means for,

responsive to the detection (finds) of execution of a buy or sell order for the first type of

fungible goods by said order detecting means, automatically executing the chain order

for the first type of fungible goods [page 3 para. 0038 to page 4. para. 0039; page 5

para 0052 to page 6 para. 0053; para. 0101], and conditioning execution of the second

open order by interactively (negotiate) establishing a relation in the electronic market

between the first open order and the second open order, by disallowing execution of the

second open order until after execution of the first order [page 1 para 0003-0004].

Re. Claims 2, & 11 Himmelstein discloses chain order storing means for storing the

chain order input from said chain order input means [Fig. 8; page 4 para. 0041; page 14

para. 0157], and deleting means for deleting, from said chain order storing means, the

chain order with respect to which the automatic execution has been completed by said

chain order processing means [Fig. 8; page 4 para. 039-0041; page 14 para. 0157-

0159].

Re. Claims 3, & 12 Himmelstein discloses further comprising display means for

selectively displaying those of the chain orders which include a sell or buy order for the

second type of fungible goods and which satisfy a condition for sale or purchase of the

second type of fungible goods [Fig. 2, 5A, 6; Abs; page 4 para. 0039; page 7 para.

0070].

Re. Claims 5, & 14 Himmelstein discloses further comprising price changing means for,

responsive to a change in price of the first type of goods, automatically changing a price

of the corresponding second type of goods of the chain order in an interlocked (linked)

manner [Abs; page 5 para. 0047].

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 7-8, & 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Himmelstein.

Re. Claims 7-8, & 16-17 Himmelstein discloses tax deferred exchange and calculating

fee [page 3 para. 0033-0034; page 7 para 0070; page 11 para. 0119-0127].

Himmelstein, explicitly, does not disclose further comprising tax amount calculating

means for calculating an amount of tax to be paid as-a result of the execution of the

chain order; and notifying means for notifying parties concerned in the execution of the

chain order of the amount of tax calculated by said tax amount calculating means and

further comprising transfer means for automatically transferring a price and a tax

payable as a result of the execution from one to another of accounts of parties

concerned in the execution. However, it is well known to one skill in the art that taxes

are calculated on taxable items (sale and trades) per IRS rules or local sale tax rules

and paid regularly by consumers, therefore Himmelstein system for tax is optional which

means if a customer (trader) wants to pay the tax, the system can calculate tax.

**Claims 4, 6 & 13, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable
over Himmelstein in view of Nymeyer (US 3,581,072).**

Re. Claims 4 & 13 Himmelstein, explicitly, does not teaches wherein said display means

inhibits display of information about a buy or sell order for the second type of fungible

goods (goods) included in the chain order when the chain order is placed, and displays

the information after the chain order is executed. However, Nymeyer discloses this step

[see entire document particularly, Abs; C1 L1 to C2 L38; C11 L50 to C12 L46; C30 L19-

L55]. It would have been obvious to one of ordinary skill in the art at the time the

Applicant's invention was made to modify the teaching of Himmelstein and include

inhibiting displaying of information, as taught by Nymeyer, to control transfer of orders

whenever there are no specific price order. Further the computer spread sheets are well

known to one skill in the art where a user can selectively inhibits and/or protect any item

(cell, row, column) from change or to hide the data from unauthorized user.

Re. Claims 6 & 15 Himmelstein, explicitly, does not teaches wherein said chain order

processing means performs chain order processing in series if an order placed with

respect to the second type of fungible goods to be transacted is a chain order. However,

Nymeyer discloses this step [Abs; C1 L1 to C2 L38; C19 L58 to C20 L23]. It would have been obvious to one of ordinary skill in the art at the time the Applicant's invention was made to modify the teaching of Himmelstein and include explicitly chain order (swap) orders in series, as taught by Nymeyer, to proceed serially through entire list of orders starting from # 1.

Response to Arguments

4.   Applicant's arguments with respect to claims 1-9 filed on June 11, 2003 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 CFR ' 1.111 (c) to consider the references fully when responding to this action.

> *US Pat 6,421,653 to May, Jul. 16, 2002 "Systems, methods and computer program products for electronic trading of financial instruments", this invention discloses a brokerage systems and methods, and more particularly, to the electronic trading of financial instruments such as derivative and interactive trading functionally.*

> *US Pat 5,924,082 to Silverman et al, Jul. 13, 1999 "Negotiated matching*
>
> *system", this invention discloses a negotiated matching system that identifies*
>
> *potential counterparties to a transaction using criteria input by each user of the*
>
> *system and then enables communication between the counterparties so that the*
>
> *parties may negotiate the final terms and/or details of the transaction.*

5.   THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Harish T Dass whose telephone number is 703-305-

4694. The examiner can normally be reached on 8:00 AM to 4:50 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Hyung S Sough can be reached on 703-308-0505. The fax phone number

for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist whose telephone number is 703-308-

1113.

Harish T Dass HTD
Examiner
Art Unit 3628

8/15/03
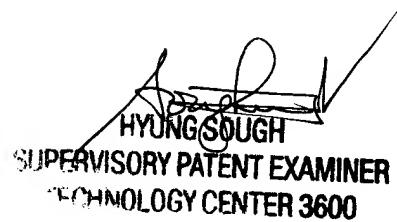
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